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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,452	04/12/2001	Randall Allen Vogel	AD6728 US NA	3330
23906	7590	01/12/2006	EXAMINER	
E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805			JACKSON, MONIQUE R	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/833,452

Applicant(s)

VOGEL ET AL.

Examiner

Monique R. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,6,7,9,11,12,14,16-18,20,21,43,45,47,49,54-81,83 and 84 is/are pending in the application.
- 4a) Of the above claim(s) 4,7,9,11,12,14,16-18,20,21,45,47,49 and 81 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,6,43,54-80,83 and 84 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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1. The amendment filed 10/13/05 has been entered. Claims 1, 3, 4, 6, 7, 9, 11, 12, 14, 16-18, 20-21, 43, 45, 47, 49, 54-81 and 83-84 are pending in the application. Claims 4, 7, 9, 11, 12, 14, 16-18, 20-21, 45, 47, 49 and 81 are withdrawn from consideration as being directed to non-elected species.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

3. Claims 1, 3, 6, 43, 56-57, 60-61, 64, 66-67, 73-74, 77 and 83-84 are rejected under 35 U.S.C. 102(b) as being anticipated by Fanselow et al for the reasons generally recited previously and restated below.

Fanselow et al teach a coextruded multilayered film comprising a core layer of soft thermoplastic polymer such as ethylene copolymers including blends with ionomers (*now reads upon the second coextruded layer*), sandwiched between outer and inside surface layers wherein in preferred embodiments the inside surface layer is an ionomeric copolymer with a copolymer of ethylene and methacrylic acid-metal cation salt being particularly suitable (*reads upon the 1<sup>st</sup> coextruded surface layer*), and wherein in particularly preferred embodiments the core layer is composed of ethylene-vinyl acetate, ethylene-butene copolymer, ethylene methacrylate copolymer, ionomer and combinations thereof (Abstract; Col. 4, lines 23-50; Col. 5, lines 1-3; Col. 11, lines 7-15.) Fanselow et al teach that the film may be clear, opaque or colored and that any one or all of the layers may be provided with pigments or dyes as desired (Col. 6, lines 34-37 and Col. 13, lines 12-15.) Fanselow et al specifically teach an example comprising a trilayer coextruded film comprising a **surface layer of a SURLYN ionomeric resin** coextruded with a

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core layer comprising a SURYLN/EMAC resin blend and an outer surface layer of EMAC (Example 18.) Faselow et al teach that the film may be laminated to itself or a second like film to produce a film based assembly that may then be bonded to connective or other performing parts (Col. 13, line 60-Col. 14, line 23.) Faselow et al further teach that the coextruded film and layers have thickness ranges that read upon the instantly claimed ranges and considering the multilayer films are produced by coextrusion to form a unitary film, the Examiner takes the position that “the flow properties” of the layers are inherently “matched” as instantly claimed (Col. 11, line 60-Col. 12, line 16.)

4. Claims 1, 3, 43, 56, 60, 64, 66, 73, 77 and 83-84 are rejected under 35 U.S.C. 102(e) as being anticipated by Mientus et al for the reasons generally recited previously and restated below.

Mientus et al teach a coextruded, multilayered film comprising a thermoplastic core layer having a first side and a second side, the core layer (*equivalent to the 2nd coextruded layer*) comprising: a polyolefin having a density in the range of about 0.89 to about 0.97 grams per cubic centimeter; a second polymeric material selected from ionomers derived from sodium, lithium or zinc and an ethylene/methacrylic acid copolymer, and a combination thereof, and a light stabilizer, and is clear or pigmented; an abrasion and scuff resistant clear first thermoplastic skin layer overlying the first side of the core layer, and a clear second thermoplastic skin layer overlying the second side of the core layer, wherein the skin layers (*read upon the instantly claimed 1st coextruded surface layer*) are preferably ethylene/methacrylic acid copolymers; ethylene/acrylic acid copolymers; ethylene/methacrylic acid copolymers containing sodium, lithium or zinc (also referred to as ionomers); and mixtures of two or more thereof; and wherein

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the multilayered film may be laminated to a substrate such as a release liner or adhered to a car, truck, boat or the like (*reads upon the instantly claimed substrates*; Abstract; Col. 3, lines 22-62; Col. 5, lines 22-33; Col. 6, lines 6-46; Col. 7, lines 32-48; Col. 12, lines 19-29; Col. 37, lines 1-5.) Mientus et al teach specific examples comprising SURYLN skin layers (*reads upon the 1st coextruded layer*) sandwiching a core layer comprising a blend with SURLYN resin (*reads upon the instant second coextruded layer*) (Examples.) Mientus et al further teach that the coextruded film and layers have thickness ranges that read upon the instantly claimed ranges and considering the multilayer films are produced by coextrusion to form a unitary film, the Examiner takes the position that “the flow properties” of the layers are inherently “matched” as instantly claimed (Col. 13, lines 1-29.)

5. Claims 1, 3, 6, 43, 54-80, 83 and 84 are rejected under 35 U.S.C. 102(b) as being anticipated by Flieger (USPN 5,789,048.) Flieger teaches a film made from a random ionomer copolymer comprising 55-90% by weight ethylene and 10-45% by weight of an unsaturated monocarboxylic acid having 3-8 carbon atoms, preferably acrylic acid or methacrylic acid, the copolymer being neutralized from 0-40% with a metal ion such as lithium, sodium, magnesium, or zinc (Abstract; Col. 2, lines 41-53.) Flieger teaches that the film may be formed by any procedure known in the art including flat film extrusion and blown film extrusion and typically has a thickness of 70-125 microns, wherein the film may be formed of several coextruded layers, each layer providing different properties (Col. 2, lines 58-67.) Flieger specifically teaches that the film may be formed by a black inner layer for ultraviolet light protection, a white middle layer for appearance, and a clear outer layer for printability and tackiness wherein Flieger includes an example comprising a multilayer film formed from an ionomer copolymer

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comprising 80% ethylene and 20% methacrylic acid neutralized 35% with sodium ions, coextruded to form a 120 micron bag comprising a black pigmented inner layer 40 microns thick, a white pigmented middle layer 40 microns thick and a transparent outer layer 20 microns thick (Col. 3, lines 1-5; Ex. 2.) With regards to the flow properties and optical properties as instantly claimed, considering the multilayer film taught by Fleiger is produced by coextrusion to form a unitary film, the Examiner takes the position that “the flow properties” of the layers are inherently “matched” as instantly claimed and further considering the clear outer or surface layer taught by Fleiger comprises the same ionomer material as instantly claimed produced by the same method, the DOI and gloss would inherently fall within the instantly claimed ranges.

***Response to Arguments***

6. Applicant's arguments filed 10/13/05 have been fully considered but they are not persuasive considering the composition of the second coextruded layer is now drafted with the open transitional term “comprising” and therefore does not exclude the other polymers blended with the ionomer resin as taught by the previously cited prior art. Hence, the layers taught by Fanselow et al and Mientus et al still read upon the instantly claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique R. Jackson  
Primary Examiner  
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January 9, 2006